

Appl. No. 10/789,224
Amdt. Dated 10/27/05
Reply to Office Action of 07/27/05

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application.

ORIGINAL CLAIMS ARE PATENTABLE

Regarding the examiner's rejection under 35 U.S.C. § 103(a), Applicant respectfully submits the combined teachings of Jones and Epstein do not teach all the recitations of Applicant's claimed invention. Applicant's independent claims recite a plurality of signals associated with accelerating and non-accelerating modes having pressure levels below and above a predetermined limit, respectively. Jones does not teach such a claimed recitation. Rather, Jones teaches a lower pressure level for a non-accelerating mode and a higher pressure level for an accelerating mode, respectively (see column 5, lines 40-48). Such pressure levels are critical and necessary for Jones' proper and intended function of closing its vacuum switch V when its intake duct pressure is reduced during deceleration, as shown in FIG. 5A. Therefore, Jones cannot provide a higher pressure level for non-accelerating modes, as claimed by the Applicant.

Applicant's independent claims further recite, inter alia, a first vehicle brake light that flashes during an interval defined after an accelerator pedal is released and before the brake pedal is engaged. Jones teaches away from such a recitation because its warning signal will turn on when engine braking is detected (see column 5, lines 44-48). Applicant's brake light will turn off when its brake pedal is engaged, as claimed in the independent claims.

Applicant respectfully submits a person of ordinary skill in the art would not combined Epstein's flashing light with Jones' system for the purpose of providing "more comprehensive notification to the driver of the following vehicle," as reasoned by the examiner. Jones' cannot operate a flashing light because its warning light is turned on and off by pressure fluctuations in its intake duct (see column 5, lines 1-12 and 40-48). A person of ordinary skill in the art knows that it is difficult and if not impossible to quickly open and closed Jones' vacuum switch V with its intake duct to toggle its

Appl. No. 10/789,224
Amdt. Dated 10/27/05
Reply to Office Action of 07/27/05

warning light between on and off modes in a constant and repetitive manner. Accordingly, Jones necessarily must employ a non-flashing light in order to properly perform its intended function (see column 5, lines 1-12). A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. *See Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

Jones also does not teach an electrical switch connected to the first engine's vacuum system, as recited in claim 3. Jones' electrical leads 38 are not connected to its engine's vacuum system. It is noted the examiner has equated Applicant's claimed switch to Jones' switch V and to electrical leads which are two separate elements in Jones' application (see FIG. 3). Applicant's vacuum switch and electrical switch are alternate embodiments of the same element. Therefore, the examiner has mischaracterized the Jones reference.

Jones teaches away from employing Applicant's claimed lens for the purpose of improving the effectiveness of the warning system, as reasoned by the examiner. There is simply no teaching, suggestion or motivation to include a lens in Jones' system because it would be redundant, unnecessary and expensive to produce. Jones' does not enable a person of ordinary skill in the art to employ its vacuum system with an auxiliary warning signal. It is well known in the automotive industry that a vehicles primary brake light must emit a red color, as mandated by state and federal laws. Therefore, unless Jones' provides some teaching, suggestion or motivation for adapting its system onto an auxiliary warning light, a person of ordinary skill in the art would not add Epstein's different colored warning lights to Jones' warning lights. It is noted that Epstein's warning lights are employed in addition to a vehicles primary lights (see paragraph 35, lines 15-24). That a prior art reference could be modified to form the claimed structure does not supply a suggestion to do so. "The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Laskowski*, 871 F.2d 115, 10 USPQ2d 1397 (Fed. Cir. 1989).

Appl. No. 10/789,224
Amdt. Dated 10/27/05
Reply to Office Action of 07/27/05

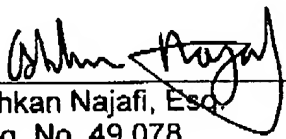
It is respectfully submitted that the combined teachings of the references applied by the Examiner fail to disclose or even suggest the subject matter of the claims at issue. In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the above mentioned arguments. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
Law Office of Ashkan Najafi, P.A.

By


Ashkan Najafi, Esq.
Reg. No. 49,078
Customer No. 34,356

6817 Southpoint Parkway
Suite 2301
Jacksonville, FL 32216
Telephone: 904-296-0055
Facsimile: 904-296-0056
patentattorney@patent-usa.com